

1 Clayeo C. Arnold, SBN 65070
JOSHUA H. WATSON, SBN 238058
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3 **A PROFESSIONAL LAW CORPORATION**
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Sacramento, CA 95825
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6 Attorneys for Plaintiff,
Phoebe Jennings
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10 PHOEBE JENNINGS,

11 Plaintiff,

12 vs.

13 CAMELLA HOSPITALITY LLC,
CAMDEN SPIT & LARDER, and DOES 1
14 through 10, inclusive,

15 Defendants.
16
17

Case No.: 34-2020-00282620

**NOTICE OF MOTION AND UNOPPOSED
MOTION TO RESOLVE AND DISMISS
PAGA ACTION; MEMORANDUM;
DECLARATION; PROOF OF SERVICE**

DATE: March 18, 2021

TIME: 9 AM

DEPT: 54

Reservation: 2552091

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TO THE COURT, ALL PARTIES, AND COUNSEL OF RECORD: PLEASE TAKE NOTICE:

At the above-captioned date, time, and department, Plaintiff PHOEBE JENNINGS will and hereby does move the Court for an order approving settlement and dismissal of this matter, including all claims raised under the PAGA cause of action. Plaintiff requests that no money be allocated to the PAGA claim because the claim lacks merit. This motion is unopposed by Defendants.

The factual grounds for this motion include:

1. Plaintiff brought an action alleging sexual harassment, wrongful termination, and wage and hour claims. The Complaint includes one count under the Private Attorney General Act of the California Labor Code. The PAGA count alleges missed meal and rest periods, an insufficient rest area, and a related underpayment of statutory wages for missed meal/rest periods. These claims are rooted in alleged violations of rest and meal breaks.
2. The matter has been resolved in principle following an exchange of information and documents between the parties.
3. It was established that Plaintiff signed a meal and break waiver in connection with her employment. Because of that waiver, Plaintiff did not have any meal or rest violations, and so was not owed PAGA penalties or statutory wages arising from missed breaks.

Legal grounds for this motion include:

1. California Labor Code § 2699(l)(2) requires court approval before any PAGA claim may be settled.

This motion is based on this notice, the accompanying memorandum and declaration, any opposition and reply papers, and any argument or evidence as may be submitted to the Court.

All parties and counsel are advised pursuant to Local Rule:

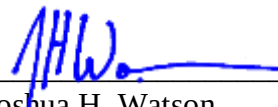
"Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter by 2:00 p.m., the

1 court day before the hearing. The complete text of the tentative
2 rulings for the department may be downloaded off the
3 court's website. If the party does not have online access, they
4 may call the dedicated phone number for the
5 department as referenced in the local telephone directory
6 between the hours of 2:00 p.m. and 4:00 p.m. on the court
7 day before the hearing and receive the tentative ruling. If you
8 do not call the court and the opposing party by 4:00
9 p.m. the court day before the hearing, no hearing will be held."

10 Respectfully submitted,

11
12 Date: January 29, 2021

CLAYEO C. ARNOLD, PC

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14 By: 
15 Joshua H. Watson
16 Attorney for Plaintiff
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2 **MEMORANDUM**

3 **I. INTRODUCTION**

4 Plaintiff in this matter alleged wrongful termination, sexual harassment, and wage and
5 hour violations based on missed meal and rest breaks for which she was not paid statutory wages.
6 The parties exchanged information and documents, and engaged in an arms-length settlement
7 facilitated by a mediator. It was determined that Plaintiff had signed a meal/break waiver such
8 that she had no violations of her meal and rest period rights, and thus no unpaid statutory wages.
9 The case settled, but there was no value for the wage and hour claims because, in light of the
10 waiver, they lacked merit. Accordingly, Plaintiff requests that the Court approve settlement
11 without any funds being assigned to the PAGA claims or paid to the State of California.

12 **II. FACTUAL BACKGROUND AND PROCEDURAL SUMMARY**

13 Plaintiff filed the Complaint in this matter on 7/31/2020. (Exhibit A, Complaint.) The
14 Complaint alleges that Plaintiff worked for Defendants as a server in their restaurant and catering
15 business, where she experienced sexual harassment by a supervisor. Although Defendants
16 terminated the supervisor after Plaintiff formally complained, Plaintiff resigned from her position
17 and asserted a wrongful termination. (Exhibit A, Complaint [Exhibit 1 thereto, DFEH
18 Administrative Complaint].)

19 Plaintiff also alleged wage and hour complaints. In essence, Plaintiff alleged that she was
20 not provided with meal and rest breaks, and not paid statutory wages for such breaks. (Exhibit
21 A, Complaint [Exhibit 2 thereto, LWDA Administrative Complaint re PAGA].) However, in the
22 exchange of information between the parties, it was shown that she had signed a break waiver
23 that she had forgotten about. (Watson Declaration, para 3.)

24 The parties engaged in an arms-length mediation. The case settled in principle for
25 \$45,000. The basis of the settlement was the harassment and wrongful termination claims.
26 (Watson Declaration, para 4.) There was no meaningful proof of any wage and hour violations.
27 (Id.)
28

1 **III. DISCUSSION**

2 California Labor Code § 2699(l)(2) requires court approval before any PAGA claim may
3 be settled. Funds recovered for civil penalties pursuant to PAGA are to be distributed 75% to the
4 State and 25% to affected employees. (Id. at (i).) Notice of this settlement proposal is provided
5 to the State at the same time this motion is filed. (Watson Declaration, para 5.)

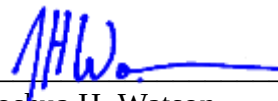
6 Here, no money can be fairly attributed to the PAGA claims. Plaintiff's PAGA claims
7 were predicated on her breaks, but she signed a waiver of her break rights. In contrast, Plaintiff
8 had dramatic employment claims. (Watson Declaration, para 4.) The settlement amount reflects
9 the economic realities of the COVID pandemic, particularly considering that Defendants work in
10 the hard-hit restaurant/catering industry. The case reflects settlement of a contested employment
11 claim, not a wage and hour matter.

12 **IV. CONCLUSION**

13 Plaintiff respectfully authorize settlement of this matter, with no funds to be allocated to
14 the PAGA claims.

15 Date: January 29, 2021

CLAYEO C. ARNOLD, PC

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17 By: 
18 Joshua H. Watson
19 Attorney for Plaintiff
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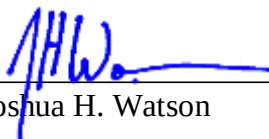
DECLARATION OF JOSHUA H. WATSON

I, Joshua H. Watson, declare the following to be true:

1. I am an attorney licensed to practice in the State of California. I practice at Clayeo C. Arnold PC, dba Arnold Law Firm, counsel of record for the plaintiff in this matter. I have personal knowledge of the matters stated herein. If called to testify, I could and would testify as stated herein.
2. Exhibit A attached hereto is a true and correct copy of the Complaint in this matter.
3. In the course of litigating this matter, the parties exchanged documents and information. In that exchange, I learned for the first time that the plaintiff in this matter had signed a waiver for her break periods. In light of that, her wage and hour claims were called into serious question to the point that I believe they lack merit and cannot be litigated in good faith.
4. At mediation, this matter settled for \$45,000. The basis of the settlement, to my understanding, was the wrongful termination and harassment claims. In light of the break waiver and the absence of corroboration of any other wage and hour violations, the only claims of substance, in my view, were the employment law allegations that included a claim that Plaintiff's manager demanded sex in exchange for work assignments allowing for reasonable tips, and harassed the Plaintiff in and out of the workplace to the point that she felt she needed to install home security.
5. I am providing notice of this lawsuit to LWDA via its online portal just prior to filing this motion. Exhibit B is proof of the notice to LWDA. These motion papers are being provided to LWDA with this notice, except for inclusion of Exhibit B (which would not exist prior to submission of these papers to LWDA).

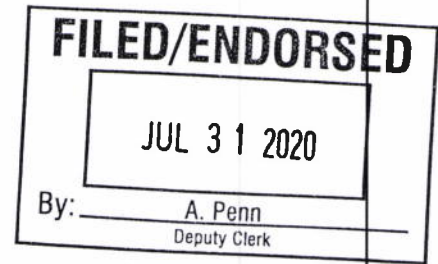
The foregoing is true and correct under penalty of perjury pursuant to the laws of the State of California. Executed in Sacramento, California on January 29, 2021.

Signed: _____


Joshua H. Watson

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Exhibit A: Complaint



1 Clayeo C. Arnold, SBN 65070
2 JOSHUA H. WATSON, SBN 238058
3 CLAYEO C. ARNOLD, APC
4 865 Howe Avenue
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7 Facsimile: (916) 924-1829
8 Email: jwatson@justice4you.com

9 *Attorneys for Plaintiff*
10 *Phoebe Jennings*

11
12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF SACRAMENTO

14 PHOEBE JENNINGS,

15 Plaintiff,

16 vs.

17 CAMELLA HOSPITALITY LLC, CAMDEN
18 SPIT & LARDER, and DOES 1 to 10

19 Defendants.

Case No.:

34-2020-00282620
COMPLAINT

Jury Trial Demanded

1 Comes now Plaintiff PHOEBE JENNINGS, who alleges and complains as follows on
2 information and belief, and who prays for relief from the court.

3 **PARTIES**

- 4 1. CAMELLA HOSPITALITY LLC (hereafter "CAMELLA") is a California Limited
5 Liability Company located in Sacramento, California.
- 6 2. CAMDEN SPIT & LARDER (hereafter "CAMDEN") is a business entity of unknown
7 that is a joint venture of or controlled by CAMELLA, and which operates a restaurant in
8 Sacramento, California.
- 9 3. Plaintiff PHOEBE JENNINGS (hereafter "JENNINGS" or "PLAINTIFF") is an adult
10 individual residing in California. At all times relevant to this Complaint, JENNINGS
11 was a joint employee of both CAMELLA and CAMDEN, in that each had the ability to
12 set the terms and conditions of her employment and exercised supervisory control over
13 her work. CAMELLA was the employer listed on PLAINTIFF's pay stubs.
- 14 4. The true names and capacities, whether individual, corporate, associate or otherwise of
15 the Defendants named herein as DOES 1-10, are unknown to PLAINTIFF at this time.
16 PLAINTIFF therefore sues said Defendants by such fictitious names. PLAINTIFF will
17 seek leave to amend this Complaint to allege the true names and capacities of DOES 1
18 through 10 when their names and capacities are ascertained. PLAINTIFF is informed
19 and believes and thereon alleges that each of the DOE Defendants is in some manner or
20 form liable to PLAINTIFF for the events and actions alleged herein.
- 21 5. Unless otherwise specified by name, the term Defendant shall include CAMELLA,
22 CAMDEN, and DOES 1-10 collectively and individually.
- 23 6. Based upon information and belief, Plaintiff alleges that at all times mentioned herein,
24 each and every Defendant was acting as an agent and/or employee or joint venture of
25 each of the other Defendants, and at all times mentioned was acting within the course and
26 scope of said agency and/or employment and/or joint venture with the full knowledge,
27 permission, and consent of each of the other Defendants. In of addition, each of the acts
28 and/or omissions of each Defendant alleged herein were made known to, and ratified by,

each of the other Defendants.

7. Defendants, and each of them, were engaged in a common enterprise for which all have joint and several liability to the extent permitted or mandated by law.

JURISDICTION AND VENUE

8. The acts and omissions at issue in this litigation occurred in Sacramento, California.
9. Defendants have their principal places of business in Sacramento, California.
10. This Complaint seeks damages in an amount in excess of the jurisdictional minimums of this Court.
11. Plaintiff has obtained a Right to Sue letter from the Department of Fair Employment and Housing (hereafter "DFEH") related to this matter.
12. Plaintiff provided more than 65 days of notice of these claims in writing via a prelitigation notice of Private Attorney General Claims under the Labor Code sent to Defendants and the Labor Workforce and Development Agency (hereafter "LWDA") without any intervention or action by LWDA occurring.

GENERAL FACTUAL ALLEGATIONS

13. Exhibit 1 hereto is a true and correct copy of PLAINTIFF's Right to Sue Letter from the California Department of Fair Employment and Housing. It is incorporated here by reference as though fully set forth.
14. Exhibit 2 hereto is a true and correct copy of PLAINTIFF's notice/complaint to LWDA for California Labor Code violations. It is incorporated here by reference as though fully set forth.
15. PLAINTIFF was subjected to sexual harassment and retaliation for complaining about such harassment as alleged in Exhibit 1.
16. PLAINTIFF was subjected to violations of the California Labor Code as alleged herein, giving rise to claims for damages due to PLAINTIFF and penalties due to the State and affected employees as alleged herein.
17. PLAINTIFF seeks penalties, damages, costs of litigation, and attorney fees per statute.

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FIRST COUNT

**FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CALIFORNIA
LABOR CODE §§ 1182.12, 1194, 1194.2, 1197, and Wage Order No. 4 § 5(A)
(By PLAINTIFF AGAINST DEFENDANTS AND DOES 1 to 5)**

18. PLAINTIFF hereby incorporates by reference and re-alleges each and every allegation set forth in each and every preceding paragraph of this Complaint, as though fully set forth herein.

19. Pursuant to California Labor Code (hereafter "Labor Code") §§ 1182.12, 1194, 1194.2, and 1197 it is unlawful for a California employer to suffer or permit an employee to work without paying wages for all hours worked, as required by the applicable Industrial Welfare Commission ("IWC") Wage Order.

20. During all times relevant, IWC Wage Order No. 5, or a substantially similar order, applied to PLAINTIFF'S employment with Defendants.

21. Pursuant to the applicable Wage Order "hours worked" includes "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

22. The applicable Wage Order requires every employer to pay each employee minimum wage. For an employer of DEFENDANTS' size, California Minimum Wage is not less than \$11.00 per hour effective January 1, 2018 and \$12.00 per hour effective January 1, 2019 for all time worked, or as may be otherwise stated by statute or regulation.

23. In conjunction with her employment, PLAINTIFF was not paid for all hours worked, as alleged in the attached LWDA administrative complaint/letter.

24. As a result, PLAINTIFF was not paid minimum wages for all hours suffered or permitted to work in violation of the minimum wage provisions of California Labor Code §§ 1182.12, 1194, 1194.2, and 1197, and the applicable Wage Order.

25. Labor Code § 1194.2, subdivision (a) provides that, in an action to recover wages because of the payment of a wage less than the minimum wage fixed by IWC Wage Orders, an employee is entitled to recover liquidated damages in an amount equal to the

1 wages unlawfully unpaid and interest thereon.

2 26. PLAINTIFF should have received minimum wages in a sum according to proof during all
3 times relevant to this action. DEFENDANTS have intentionally failed and refused, and
4 continue to fail and refuse, to pay PLAINTIFF minimum wages for all time suffered or
5 permitted to work.

6 27. PLAINTIFF requests the recovery of the unpaid minimum, waiting time penalties,
7 liquidated damages, interest, attorneys' fees, and costs in an amount to be determined at
8 trial.

9 **SECOND COUNT**

10 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF**
11 **CALIFORNIA LABOR CODE §§ 510, 1194, and Wage Order No. 5 § 3(A)**
12 **(PLAINTIFF AGAINST DEFENDANTS AND DOES 1 to 5)**

13 28. PLAINTIFF hereby incorporates by reference and re-alleges each and every allegation
14 set forth in each and every preceding paragraph of this Complaint, as though fully set
15 forth herein.

16 29. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in 1
17 workday and any work in excess of 40 hours in any one workweek and any work on the
18 seventh consecutive day shall be compensated at the rate of no less than one and one-half
19 times the regular rate of pay for an employee. Any work in excess of 12 hours in one
20 day, or in excess of 8 hours on the seventh consecutive day shall be compensated at the
21 rate of no less than twice the regular rate of pay for an employee. (Labor Code § 510 and
22 applicable IWC Wage Order.)

23 30. PLAINTIFF is informed and believes, and based thereon alleges, that during all times
24 relevant to this action, PLAINTIFF worked more than 8 hours per workday on some
25 occasions, and/or more than 40 hours per workweek, and/or performed work on the
26 seventh consecutive day of working in an amount to be proven at trial, but did not receive
27 any overtime wages for overtime hours suffered or permitted to work. This is as alleged
28 in the attached LWDA administrative complaint/letter.

1 31. Based on the misconduct alleged in this Complaint, PLAINTIFF seeks to recover unpaid
2 overtime compensation, penalties, interest, reasonable attorneys' fees, and costs in an
3 amount to be determined at trial.

4 **THIRD COUNT**

5 **VIOLATION OF CAL. LABOR CODE § 203 (FAILURE TO PAY FINAL WAGES)**

6 **(By PLAINTIFF AGAINST DEFENDANTS AND DOES 1 to 5)**

7 32. PLAINTIFF hereby incorporates by reference and re-alleges each and every allegation
8 set forth in each and every preceding paragraph of this Complaint, as though fully set
9 forth herein.

10 33. DEFENDANTS willfully failed to pay PLAINTIFF all wages due at the time of her
11 termination, including minimum, overtime, and statutory wages

12 34. PLAINTIFF therefore seeks damages and penalties as available at law for failure to pay
13 final wages in full, including but not limited to those provided by Cal. Labor Code §203.

14 **FOURTH COUNT**

15 **VIOLATION OF CAL. LABOR CODE § 1199 and WAGE ORDER 5**

16 **(FAILURE TO PAY STATUTORY WAGES)**

17 **(By PLAINTIFF AGAINST DEFENDANTS)**

18 35. PLAINTIFF hereby incorporates by reference and re-alleges each and every allegation
19 set forth in each and every preceding paragraph of this Complaint, as though fully set
20 forth herein.

21 36. DEFENANTS failed to pay statutory wages due to PLAINTIFF on account of the meal
22 period and rest period allegations alleged herein.

23 37. PLAINTIFF was entitled to one hour of statutory wages for each and every day in which
24 she was not provided an unpaid meal period of at least 30 duties in which she was
25 relieved of all duty in a suitable meal area.

26 38. PLAINTIFF was entitled to one hour of statutory wages for each and every day in which
27 she was not provided an opportunity to take each and every paid rest period of at least 10
28 net minutes in which she was relieved of all duty in a suitable rest area.

1 39. Due to the fact that DEFENDANTS did not provide any suitable rest or meal area during
2 PLAINTIFF's period of employment, PLAINTIFF is entitled to an award of two hours of
3 statutory wages for each day she reported to work because the lack of a suitable rest area
4 rendered each meal and/or rest period noncompliant with the applicable Wage Order,
5 even if PLAINTIFF were provided with an otherwise compliant period (which she was
6 not).

7 40. PLAINTIFF therefore seeks statutory wages for each such violation, and attorney fees
8 and costs as provided by statute and regulation.

9 **FIFTH COUNT**

10 **ACTION AS REPRESENTATIVE OF STATE OF CALIFORNIA**

11 **PURSUANT TO PRIVATE ATTORNEYS GENERAL ACT**

12 **CAL. LABOR CODE §2698, et seq.**

13 **(BY PLAINTIFF AS REPRESENTATIVE OF CALIFORNIA FOR PENALTIES DUE**
14 **FOR VIOLATIONS INVOLVING PLAINTIFF AND ALL THOSE SIMILARLY**
15 **SITUATED AGAINST DEFENDANTS)**

16 41. PLAINTIFF hereby incorporates by reference and re-alleges each and every allegation
17 set forth in each and every preceding paragraph of this Complaint, as though fully set
18 forth herein.

19 42. DEFENDANTS violated the California Labor Code as alleged herein, including but not
20 limited to with respect to each and every violation of the Labor Code discussed in the
21 PAGA notice attached to this Complaint as an exhibit.

22 43. PLAINTIFF exhausted all administrative remedies as pled herein.

23 44. PLAINTIFF suffered injury and attendant damages as a direct and proximate
24 consequence of such violations of the Labor Code because each such violation was one
25 she suffered, and which thereby deprived her of statutory rights and, where applicable,
26 payment of minimum wages, overtime wages, statutory wages, or reimbursement.

27 45. Other employees employed by DEFENDANTS within the relevant statute of limitations
28 also suffered such injury and attendant damages for these same violations, including but

1 not limited to meal break, rest break, rest area, and nonpayment of wages as alleged
2 herein.

3 46. PLAINTIFF, as a representative of the State of California, is entitled to a recovery of all
4 statutory/civil penalties for such violations affecting PLAINTIFF and similarly situated
5 employees, with 75% of the penalties to be paid to the State of California, and 25% of the
6 penalties to be paid to each affected employee, including PLAINTIFF, or as may
7 otherwise be provided by code. Cal. Labor Code § 2698, et seq.

8 47. PLAINTIFF is further entitled to a recovery of attorney fees and costs per statute.

9 **SIXTH COUNT**

10 **VIOLATION OF CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**

11 **(QUID PRO QUO HARASSMENT – CACI 2520)**

12 **(BY PLAINTIFF AGAINST DEFENDANTS and DOES 6 to 10)**

13 48. PLAINTIFF hereby incorporates by reference and re-alleges each and every allegation
14 set forth in each and every preceding paragraph of this Complaint, as though fully set
15 forth herein.

16 49. PLAINTIFF was an employee of DEFENDANTS.

17 50. A supervisor, named in the DFEH administrative complaint as “K.T.” made unwanted
18 sexual advances to PLAINTIFF an engaged in other unwanted verbal or physical conduct
19 of a sexual nature as alleged in the administrative complaint.

20 51. PLAINTIFF’s terms and conditions of employment including working hours, benefits,
21 and favorable working conditions were made contingent by words and conduct on
22 PLAINTIFF’S acceptance of K.T.’s sexual advances on content, as alleged in the
23 administrative complaint, including but not limited to those references to K.T.
24 using/manipulating work conditions to obtain compliance by PLAINTIFF.

25 52. At all relevant times, K.T. was PLAINTIFF’s supervisor and an agent of
26 DEFENDANTS.

27 53. As a direct and proximate result of the foregoing, PLAINTIFF suffered injury and
28 damages.

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SEVENTH COUNT

VIOLATION OF CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT

(HARASSMENT – CACI 2521A, 2521B)

(BY PLAINTIFF AGAINST DEFENDANTS and DOES 6 to 10)

54. PLAINTIFF hereby incorporates by reference and re-alleges each and every allegation set forth in each and every preceding paragraph of this Complaint, as though fully set forth herein.

55. PLAINTIFF was at all relevant times an employee of DEFENDANTS, and K.T. was her supervisor.

56. PLAINTIFF was subjected to harassing conduct directed at her on account of sex and gender, as alleged herein.

57. Such harassing conduct was severe in that the conduct was fundamentally unacceptable (e.g. conditioning workplace conduct on sexual relations). Such harassing conduct was also pervasive (as reflected by its ongoing and repetitive nature). The impact of such harassing conduct was amplified because it was engaged in by a supervisor.

58. A reasonable person in PLAINTIFF's position would have considered the work environment to be hostile, intimidating, offensive, oppressive, or abusive.

59. Such conduct was engaged in by a supervisor, and the supervisor (and DEFENDANTS) knew or should have known of the conduct and its objected-to nature, yet failed to take immediate and appropriate corrective action.

60. As a direct and proximate result, PLAINTIFF suffered injury and attendant damages.

61. PLAINTIFF is entitled to an award of damages, litigation costs, and attorney fees.

EIGHTH COUNT

VIOLATION OF CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT

(RETALIATION – CACI 2505)

(BY PLAINTIFF AGAINST DEFENDANTS and DOES 6 to 10)

62. PLAINTIFF hereby incorporates by reference and re-alleges each and every allegation set forth in each and every preceding paragraph of this Complaint, as though fully set

1 forth herein.

2 63. PLAINTIFF was an employee of DEFENDANTS, and engaged in the protected activities
3 alleged herein, including but not limited to objecting to sexual harassment, and resisting
4 sexual harassment.

5 64. DEFENDANTS constructively terminated and otherwise took adverse action against
6 PLAINTIFF that altered the terms and conditions of her employment. DEFENDANTS
7 reduced PLAINTIFF's work hours and altered the conditions of her work in a way that
8 effectively reduced her ability to earn tips, which constituted a substantial portion of her
9 income from the subject employment, as alleged in the attached DFEH administrative
10 complaint. PLAINTIFF suffered injury both from the constructive termination and the
11 other adverse action.

12 65. PLAINTIFF's protected activities alleged herein were a substantial motivating reason for
13 DEFENDANTS' constructive termination of her employment and/or adverse action.

14 66. As a direct and proximate result, PLAINTIFF was injured and suffered attendant
15 damages.

16 67. PLAINTIFF is entitled to economic damages, non-economic damages, attorney fees, and
17 costs of litigation pursuant to statute.

18 68. Further, PLAINTIFF is entitled to an award of punitive damages. For a summary of
19 California law as this damage, see CACI 3945 (concerning punitive damage awards
20 against entities). Specifically:

- 21 a. DEFENDANTS acted with "malice," in that their retaliatory alteration of the
22 terms and conditions of PLAINTIFF's employment in a way that reduced her
23 ability to earn a living was despicable and done with a willful and knowing
24 disregard for PLAINTTUFF's rights to be free of sexual harassment and to
25 complain of harassment without reprisal. DEFENDANT's managing agents were
26 such retaliation was unlawful, as this is common knowledge in current
27 employment environments. Such conduct is malicious to a degree that it warrants
28 an award of damages.

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1. For economic damages according to proof;
2. For non-economic damages according to proof;
3. For penalties as provided by statute or order according to proof;
4. For punitive damages according to proof as to claims under the Fair Employment and Housing Act;
5. For attorney's fees as permitted by statute;
6. For unpaid wages, overtime wages, statutory wages;
7. For prejudgment interest per code as to unpaid wages;
8. For costs of suit;
9. For such other and further relief as the court deems proper.

Dated: July 29, 2020

By:

Joshua H. Watson
Counsel for Plaintiff

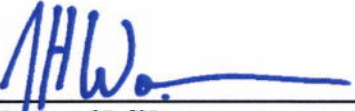
DEMAND FOR JURY TRIAL

Plaintiff demands jury trial.

Dated: July 29, 2020

CLAYEO C. ARNOLD, APC

By:


Joshua H. Watson
Counsel for Plaintiff

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EXHIBIT 1: DFEH Complaint



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

May 17, 2020

RE: **Notice of Filing of Discrimination Complaint**
DFEH Matter Number: 202005-10183117
Right to Sue: Jennings / Camden Spit & Larder et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing

In the Matter of the Complaint of Phoebe Jennings

Complainant,

Camella Hospitality LLC
555 Capitol Mall, Ste 995
Sacramento, California 95814

Additional Complaint Details: Complainant was employed as a server at Respondents' restaurant and catering businesses. She was jointly employed by both Respondents. She worked in the restaurant serving patrons in regular hours, and for special events serviced by Respondents. Complainant began work for Respondents in or about November of 2018. She had acceptable work performance, was not disciplined or otherwise reprimanded in any material manner, and got along well with coworkers until the wrongful conduct described herein. In or about April of 2019, Complainant had intimate relations with her manager working for Respondents, K.T. K.T. was in a position to control directly and indirectly the terms and conditions of Complainant's employment. After the two had such relations, K.T.'s behavior changed towards Complainant. He used his power in the workplace as a means of controlling Complainant to pressure her compliance to his wishes unrelated to work. He reduced her access to work that would result in good tips, which were the basis of a substantial portion of Complainant's income. This included reduced private-party service and scheduling shifts to shifts with lower tips. He would take her off of service duty and have her do increased "house work" such as cleaning, which reduced her ability to earn tips. He expressed hostility in the workplace that prompted other co-workers to ask Complainant what was going on. At the time K.T. expressed such levels of hostility towards Complainant, he was not hostile to others. Complainant complained to K.T., but his behavior continued, and any non-compliance with his wishes out of work led to retaliation in the workplace. In or about January of 2020, Complainant reported the harassment to management higher up in the business. Respondents put Complainant on leave. When she returned, K.T. was not reporting to work when she was. However, her hours were substantially reduced, affecting both her base wages and ability to earn tips. She complained about the reduction, and was told that everyone's hours were being reduced, even though this was not true. Complainant experienced substantial interpersonal friction with her co-workers after her complaint. Many co-workers stopped talking to her at work. One ran into her physically, causing glasses on a serving tray to break. Respondents did not take action to prevent or deescalate such behavior, nor did Respondents have sufficient policies, practices, and active action to prevent this entire course of misconduct or appropriately mitigate its affects such that they did not have a proper program to prevent sexual harassment. Although K.T. was not working with Complainant, the increasing friction, reduced/changed shifts, and reduced access to tips constituted an ongoing retaliation that made it unreasonable for Complainant to remain at her job. She therefore resigned in a constructive termination on or about March 3, 2020.

1 VERIFICATION

2 I, **Joshua H. Watson**, am the **Attorney** in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On May 17, 2020, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

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EXHIBIT 2: LWDA PAGA NOTICE



865 Howe Avenue, Sacramento, CA 95825
P: 916-777-7777 | F: 916-924-1829 | justice4you.com

CLAYD C. ARNOLD
ANTHONY M. ONTIVEROS
JOHN T. STRALEN**
*Of Counsel
**Board-Certified Civil
Trial Advocate by National
Board of Trial Advocacy

JOSHUA H. WATSON
GINA M. BOWDEN
LESLIE GUILLON
ANTHONY J. POIDMORE*
M. ANDERSON BERRY
ANDREW G. MINNEY

PERSONAL INJURY
WRONGFUL DEATH
EMPLOYMENT LAW
PRODUCT LIABILITY
CLASS ACTION
QUI TAM

May 18, 2020

Via Certified Mail, Return Receipt Requested

Camden Spit & Larder
555 Capitol Mall, Ste 100
Sacramento, CA 95814

Attn: Dan Corfee
Camella Hospitality LLC
555 Capitol Mall, Ste 995
Sacramento, CA 95814

RE: NOTICE OF COMPLAINTS FILED WITH LWDA & DFEH

Employee: Phoebe Jennings

Employer(s): Camden Spit & Larder; Camella Hospitality

Dear Camden Spit & Larder; Camella Hospitality:

Enclosed, please find important legal correspondence that you should promptly refer to your legal counsel. Our firm has filed administrative claims with the Labor Workforce and Development Agency (LWDA) and the Department of Fair Employment and Housing. These are enclosed.

Please note that the LWDA materials include an initial and amended filing. The amendment corrects a typographic error in Ms. Jennings's first name.

If you wish to discuss resolution of this matter, please have your counsel contact us within one week. We reserve the right to file suit at any time per code.

Please note the demand to preserve all evidence and request for records in the attached materials.

Very truly yours,

Joshua H. Watson
Attorney at Law

Joshua Watson

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Sunday, May 17, 2020 1:19 PM
To: Joshua Watson
Subject: Jennings, Phoebe v.: Thank you for your Amended PAGA Claim Notice Submission

05/17/2020 01:18:56 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim Notice If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm



865 Howe Avenue, Sacramento, CA 95825
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**Board-Certified Civil
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Board of Trial Advocacy

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PERSONAL INJURY
WRONGFUL DEATH
EMPLOYMENT LAW
PRODUCT LIABILITY
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QUI TAM

May 18, 2020

Via Certified Mail, Return Receipt Requested

Camden Spit & Larder
555 Capitol Mall, Ste 100
Sacramento, CA 95814

Attn: Dan Corfee
Camella Hospitality LLC
555 Capitol Mall, Ste 995
Sacramento, CA 95814

Via Electornic Submission

Labor Workforce & Development Agency

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

**RE: NOTICE OF COMPLAINT FILED WITH LWDA,
DEMAND FOR EMPLOYEE RECORDS, & PRESERVATION DEMAND**

Employee: Phoebe Jennings

Employer(s): Camden Spit & Larder; Camella Hospitality

Dear Camden Spit & Larder, Camella Hospitality, and LWDA:

This letter is a complaint and notice of complaint to the California Labor Workforce & Development on behalf of the above named employee and those similarly situated against the above identifeid employer(s) for violations of sections of the California Labor Code enforceable by the Private Attorney General's Act, Labor Code § 2699, et seq. Arnold Law Firm represents the above-identified employee. A designation of counsel form is attached.

This letter is also a reminder of aour demand for production of the following employee records, which the above employer(s) must produce within 21 days of request. I note we requested these materials on May 12, 2020.

1. All documents reflecting wages paid to the employee, and specific hours worked.
(See Cal. Labor Code § 226(c).)
2. All documents that were signed by the employee.
(See, Cal. Labor Code § 432.)
3. The employee's personnel file in its entirety.
(See Cal. Labor Code § 1198.5.)

This letter is also a demand that the employer(s) identified above **preserve all potential evidence** related to the complaints in this matter and alter any document retention policies to avoid destruction of potentially relevant material. All business records, computer records, third party app data, cell phone messages, cell phone bills, computers, tablets, mobile phones, and any other form of information or means of storing information related to the issues raised here or in any way relating to our client's employment or communications must be preserved. This extends to both company materials and the materials owned by other employees (e.g. a manager's cell phone). Any destruction, deletion, or alleged "loss" of such materials will result in a request for sanctions for spoliation of evidence.

In general terms, our client alleges the following:

Ms. Jennings client worked as a server in the above-identified employer's restaurant/catering business for over a year preceeding the end of her employment on or about 3, 2019. In that time, rhe above-identified employer(s) violated the following sections of the California Labor Code:

Labor Code Violation	Description of Violation
LC 201, 201.5, 201.7, 202, 203 [Nonpayment of wages at discharge]	Employee was not paid for all wages when her employment ended. She was not paid for hours that she worked without compensation due to the minimum wage allegations herein. She was not paid all statutory wages due as alleged herein.
LC 204, 204a, 204b [Late Payment of wages]	Employee was not timely paid wages for hours she worked without compensation due to the minimum wage allegations herein. Each paycheck affected by a minimum wage violation resulted in nonpayment/delayed payment of such wages due.
LC 226 [pay check stub does not include: ☐ gross wages, ☐ total hours worked or number of pieces, ☐ all deductions, ☐ net wages, inclusive dates of pay period, ☐ employee name, ☐ SSN or employee ID number, ☐ name, ☐ hourly rate(s) in effect	Employee's pay stubs were incorrect because they misstated her hours worked, gross wages, overtime wages, and corresponding withholding on account of the minimum wage violation discussed herein. We note this is a curable

for pay, period with hours worked for each.]	violation, that this violation affected multiple employees, and that the pay stub violation may be cured by reissuance of all incorrect time stubs within the statutory period to all affected employees. If Employer elects to cure this violation, we request proof of compliance the form of our client's amended unredacted paystubs sent to our office, a name-redacted copy of all amended paystubs submitted to our office (but leaving a per-employee identifier on each such stub), and a declaration under oath specifying the steps taken to reach compliance submitted to our office and to LWDA with Employer's response.
LC 510 [overtime violations]	On certain occasions when Employee worked shifts or double shifts that resulted in more than 8 hours of work, the minimum wage violation discussed herein caused Employee to work more than 8 hours on a specific day, such that time not paid to her will result in overtime when added back into her amended paystubs. This time is overtime that was not appropriately at the time is was earned. In other words, on days in which correcting for unpaid time results in a total time worked of over 8 hours, there was a failure to pay overtime.
LC 1194, 1197, 1197.1 [minimum wage violations]	Employers paid Claimant on an hourly basis. Employers ostensibly used a system to track hours worked by Claimant. Employers required Claimant to work through her lunch/meal break without being relieved of all duty for 30 minutes. Employer had at least two managers

	who amended the records of the hours worked by Employee. One of those managers added a 30 minute meal break into the records, and also added 30 minutes of work to the end of the shift. This resulted in payment of the 30 minutes actually worked, but did not result in pay for overtime on those days in which Employee worked more than 8 hours. Neither did it result in payment of a necessary meal premium. A different manager added a 30 minute meal break into the records, and did not add any time to the end of the work day. This resulted in nonpayment of work for 30 minutes on each affected shift, as well as overtime violations on any day in which Employee worked over 8 hours. Employer did not pay any premium for such missed meal breaks.
LC 1199 [penalty for wage, hour, condition violations, 1171-1206]	Employer violated this statute as noted in the minimum wage violation above. Employer's managers also violated this provision as noted above, and did so willfully and maliciously by changing existing records of hours worked.
LC 226.7,512 [rest and meal break violations]	As indicated herein, Employer did not provide meal breaks to Employee, and failed to pay any of the premium/statutory wages required as a result. Further, Employer did not any any time provide any suitable rest areas for its employees. As a result, Employee could never have been

	provided with, and was never provided with, a IWC Order-compliant rest period. Further, Employer frequently did not permit Employee to take rest breaks. Employer staffed the restaurant at levels that generally required Employee to remain on duty continuously, and often there was no back up server available to assist customers if Employee were to take a break.
--	---

We note that several other employees were similarly situated to our client, and that we intend to pursue action under PAGA as related to all such employees.

The to the degree any violations of the California Labor Code are curable before suit, the employer(s) must do so within the statutory period and file and serve robust proof of any such cure.

Unless otherwise instructed by LWDA, we will file suit or amend any already-filed civil suit to include these PAGA allegations at the conclusion of the mandatory waiting period provided for by statute.

Very truly yours,

Joshua H. Watson
Attorney at Law

Filing fee (\$75) to: Department of Industrial Relations Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA 94102



AUTHORIZATION FOR LEGAL REPRESENTATION AND RELEASE OF INFORMATION

TO : _____

RE : Client's Name : Phoebe Jennings
Date of Birth : [REDACTED]
Matter : Jennings v Camella Hospitality; Camden Spit and Larder

I, the undersigned, hereby appoint Clayeo C. Arnold, A Professional Law Corporation dba Arnold Law Firm, their attorneys, employees, agents and representatives, as my legal representative for investigating certain matters.

I authorize the party, agency or entity to whom this authorization is directed to furnish to my attorney, his agents, designees or representatives, the following: any and all records in your possession pertaining me, the undersigned. These records include but are not limited to, police reports, investigative reports, and related information; personnel, employment, payroll records and related information; insurance, policy information, payments, listing of providers, and related information; academic or school records, attendance records, grades, reports and related information; including but not limited to those listed above and further specified below:

I hereby waive any privilege which would prevent you from disclosing the above-described information to my attorney, but the waiver of any privilege is hereby expressly limited to allowing you to disclose the information to my attorney only, and all other privileges are hereby expressly retained and not waived.

A copy of this authorization shall be deemed as valid as the original. This authorization shall become effective immediately and remain in effect until revoked by me in writing or for one year from date of signature.

DATED: 5/3/2020 _____

Signed: _____

Joshua Watson

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Sunday, May 17, 2020 11:27 AM
To: Joshua Watson
Subject: Jennings, Phoebe v.: Thank you for submission of your PAGA Case.

5/17/2020

LWDA Case No. LWDA-CM-786929-20
Law Firm : ARNOLD LAW FIRM
Plaintiff Name : Pheobe Jennings
Employer: Camden Spit & Larder

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm



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M. ANDERSON BERRY
ANDREW G. MINNEY

PERSONAL INJURY
WRONGFUL DEATH
EMPLOYMENT LAW
PRODUCT LIABILITY
CLASS ACTION
QUI TAM

May 18, 2020

Via Certified Mail, Return Receipt Requested

Camden Spit & Larder
555 Capitol Mall, Ste 100
Sacramento, CA 95814

Attn: Dan Corfee
Camella Hospitality LLC
555 Capitol Mall, Ste 995
Sacramento, CA 95814

Via Electronic Submission

Labor Workforce & Development Agency

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

**RE: NOTICE OF COMPLAINT FILED WITH LWDA,
DEMAND FOR EMPLOYEE RECORDS, & PRESERVATION DEMAND**

Employee: Pheobe Jennings

Employer(s): Camden Spit & Larder; Camella Hospitality

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(See Cal. Labor Code § 226(c).)
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for pay, period with hours worked for each.]	violation, that this violation affected multiple employees, and that the pay stub violation may be cured by reissuance of all incorrect time stubs within the statutory period to all affected employees. If Employer elects to cure this violation, we request proof of compliance the form of our client's amended unredacted paystubs sent to our office, a name-redacted copy of all amended paystubs submitted to our office (but leaving a per-employee identifier on each such stub), and a declaration under oath specifying the steps taken to reach compliance submitted to our office and to LWDA with Employer's response.
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Unless otherwise instructed by LWDA, we will file suit or amend any already-filed civil suit to include these PAGA allegations at the conclusion of the mandatory waiting period provided for by statute.

Very truly yours,



Joshua H. Watson
Attorney at Law

Filing fee (\$75) to: Department of Industrial Relations Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA 94102



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Exhibit B: Proof of Notice to LWDA

1 **Re: Jennings v. Camella Hospitality, et al.**
2 **California Superior Court of California, County of Sacramento**
3 **Case No. 34-2020-00282620**

4 **Proof of Service**

5 I declare and state:

6 I am a citizen of the United States, over 18 years of age, employed in the county of Sacramento,
7 and not a party to the within action. My business address is 865 Howe Avenue, Sacramento,
8 CA 95825.

9 On the date below, I served the within **NOTICE OF MOTION AND UNOPPOSED**
10 **MOTION TO RESOLVE AND DISMISS PAGA ACTION; MEMORANDUM;**
11 **DECLARATION; PROOF OF SERVICE** on the following parties in said action by the
12 means indicated below:

13 ☒ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in
14 the United States mail at Sacramento, California. I am familiar with my firm's practice
15 whereby the mail is given the appropriate postage and is placed in the designated area to be
16 deposited in a U.S. mail box in Sacramento, California, in the ordinary course of business;

17 ☐ (BY EXPRESS/OVERNIGHT MAIL) I caused such envelope to be placed in the U.S.
18 Mail/UPS depository at Sacramento, California; overnight service;

19 ☐ (BY PERSONAL SERVICE) delivered by hand to addressee at the address listed below;

20 ☐ (BY FACSIMILE/TELECOPIER) I personally sent to the addressee's telecopier number
21 (stated below) a true copy of the above-described documents.

22 ☒ (BY TRANSMITTING VIA EMAIL OR ELECTRONIC TRANSMISSION) the
23 document(s) listed above to the addressees listed on the attached service list at the email
24 addresses listed thereon.

25 MARK S. POSARD (SBN: 208790)
26 AZNIV DARBINIAN (SBN: 197787)
27 GORDON REES SCULLY MANSUKHANI, LLP
28 3 Parkcenter Drive, Suite 200
Sacramento, CA 95825
Telephone: (916) 565-2900
Facsimile: (916) 920-4402
mposard@grsm.com
adarbinian@grsm.com
Attorneys for Defendants
CAMELLA HOSPITALITY, LLC and CAMDEN SPIT & LARDER

29 I declare under penalty of perjury under the laws of the state of California that the foregoing is
30 true and correct. Executed on January _____, 2020, at Sacramento, California.

31 Signed: _____

32 Name: _____